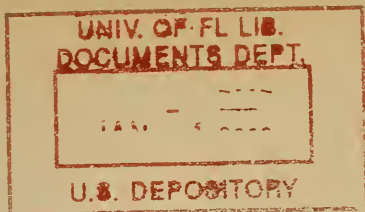


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**THE AMERICAN COMMISSIONER
MIXED CLAIMS COMMISSION
UNITED STATES AND GERMANY**

DECISION NO. 54

IN THE MATTER OF

FIXING REASONABLE FEES FOR ATTORNEYS OR
AGENTS UNDER THE AUTHORITY OF SECTION 9 OF
THE "SETTLEMENT OF WAR CLAIMS ACT OF 1928"

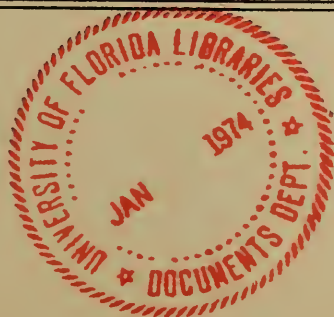
DOCKET NO. 7558

*The Equitable Trust Company of New York, as Successor Trustee
in Bankruptcy of Knauth, Nachod & Kuhne, Claimant*

George T. Hogg, Attorney

CHANDLER P. ANDERSON,
American Commissioner

U. S. GOVERNMENT PRINTING OFFICE: 1929



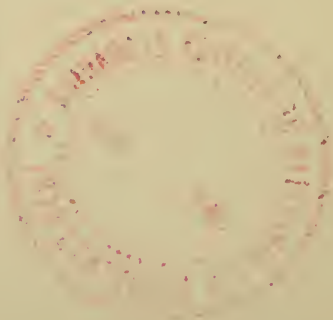
MIXED CLAIMS COMMISSION, UNITED STATES AND GERMANY

Established in pursuance of the Agreement between the
United States and Germany of August 10, 1922

CHANDLER P. ANDERSON

American Commissioner

(II)



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in Bankruptcy of Knauth, Nachod & Kuhne, Claimant*

George T. Hogg, Attorney

The above named claimant has duly filed with the American Commissioner a written request that he fix a reasonable fee to be paid by it to its attorney, George T. Hogg, of New York City, New York, as compensation for whatever services have been rendered by him on behalf of and with the authority of the claimant, such services being of the character described in the provisions of Section 9 of the "Settlement of War Claims Act of 1928."

The attorney has joined in the filing by the claimant of this request that a reasonable fee be fixed, and, in response to a request by the American Commissioner, has filed with him an affidavit, giving the information which he desires to have considered by the Commissioner as showing the reasonableness of the fee asked by him. It

appears from this affidavit that the claimant's request herein was filed because a special meeting of creditors would be necessary if the amount of the attorney's fees had to be fixed by the bankruptcy court. A copy of this affidavit has been brought to the attention of the claimant, whose attorneys, Messrs. Goldmark, Bennitt & Colin, have informed the American Commissioner that the claimant "intends to file no affidavit in reply."

In this case an award on behalf of the claimant was rendered by this Commission on February 6, 1929, for \$5,919.44, with interest thereon at the rate of five per cent per annum from December 11, 1921, to the date of payment. A petition for rehearing and for an additional award was dismissed on March 20, 1929, the Commission holding:

The petition unfortunately disregards the distinction which has been drawn by this Commission between Germany's financial obligations under Article 297 of the Treaty of Versailles, which constitute a primary liability on the part of Germany, and Germany's financial obligations on account of a private indebtedness arising out of a pre-war transaction for which Germany is only secondarily liable as a guarantor.

In the present case the amount awarded by the Commission was for the cash assets held by the German Treuhander, for which Germany is primarily liable under the Treaty provisions, but no claim can be maintained against Germany as guarantor of an indebtedness unless the Commission first finds an indebtedness to be due to the claimant in accordance with the Treaty requirements. In this case the Commission has held that no present indebtedness due to the claimant, arising out of a pre-war transaction in accordance with the requirements of the Treaty, has been established, and, accordingly, there is no basis for an award on behalf of the claimant against Germany as to the other items of this claim.

It appears that this attorney has already been paid \$420.00, in full for services rendered to the original claimant, Knauth, Nachod & Kuhne, prior to its bankruptcy.

The amount of the fee asked by the attorney as compensation for his services rendered to the Trustee and Successor Trustee in Bankruptcy, is \$3,696.00, in addition to his disbursements, which amount to \$233.71. The total amount received by the claimant from the Treasury Department, on or about July 29, 1929, in payment of the award herein, was \$8,277.13.

Following the bankruptcy of Knauth, Nachod & Kuhne, the attorney herein was directed to proceed with the prosecution of the

claim before this Commission on behalf of the Trustee in Bankruptcy. No agreement was made as to the amount of his compensation. He states that his charge for services herein is based upon "the work performed and the time occupied therein and the amount of the claims and the skill and experience employed and the result attained."

In arriving at his charge for compensation, however, it appears that the attorney herein has followed the method provided for in his arrangement with the original claimant, which method, he states, was "the same as that employed for other clients." It appears from his affidavit filed in this proceeding that he made record entries of services performed on approximately 164 days, extending over the years from 1925 to 1929. He states that "some of those entries represent only routine matters, such as the receipt and answering of a letter; but they all represent services that required attention and took some time. Many of them represent whole days of work which was continued late into the night." He determined the amount needed each entry day to cover his necessary living and office expenses. During specified periods of time, this varied from \$15.00 to \$18.00 per day. He has multiplied the number of specified days during each of the specified periods by the rate therefor, and added the result. This amounts to \$2,584.00. He has added thereto the sum of \$1,112.00 as compensation "predicated on the large amount of the claims and the skill and experience employed and the result attained," and he states that "that small addition was determined upon because of the comparatively small amount of the award."

From the record in this case it appears that the attorney herein charged the original claimant the sum of \$420.00 for services rendered in this claim prior to its bankruptcy, and that this amount has been approved by the bankruptcy court and has been paid. The attorney's charges, amounting to \$2,584.00, for services rendered subsequent to the bankruptcy on behalf of the Trustee and Successor Trustee in Bankruptcy, have been computed on a similar basis, i. e., upon a consideration of the record entries made, and irrespective of whether any recovery was obtained. Although no agreement was made with the Trustee in Bankruptcy as to compensation, the services rendered were a continuation of those rendered on behalf of the original claimant. Under his arrangement with the original claim-

ant, the attorney's additional charge of \$1,112.00 would not have been made if there had been no recovery. Under such an arrangement, this amount would be in the nature of a contingent charge.

This proceeding, however, has to do with the services rendered by the attorney herein on behalf of the claimant, and, as above stated, there was no agreement between the parties as to the attorney's fee. His services, accordingly, must be valued on the quantum meruit basis.

The character and extent of the services rendered are set out in the affidavit filed by the attorney in this proceeding and are shown by the records of this Commission. The claim herein required extended correspondence and numerous conferences, not only with representatives of the American Agency before this Commission but with the claimant herein and its attorneys. Four briefs were prepared, printed and filed by the attorney herein, and it is clear that he necessarily devoted a substantial amount of time and attention to the claim.

The American Commissioner, concurring with the Bankruptcy Court, holds that the arrangement made between the original claimant and the attorney herein provides a fair and just basis for computing the value of the services rendered by the attorney on behalf of the claimant herein. The charges, amounting to \$2,584.00, have a direct relation to the services performed. The additional charge of \$1,112.00, however, presents other considerations. The claim herein was for the value of Marks 1,050,000,—which was computed in American money to be \$168,000, with interest at the rate of five per cent per annum from January 1, 1920, to the date of payment. No claim was filed for the interest, amounting to Marks 34,019.75, paid by the German firm to the Treuhander. The Commission's award was for this item,—“the cash assets held by the German Treuhander, for which Germany is primarily liable,” and the claim as to the “indebtedness,” was dismissed. It does not appear that the attorney herein rendered any services with reference to the amount for which an award was rendered by this Commission, except in applying for payment of the award by the Treasury Department.

The attorney has expended \$168.00 for printing briefs, \$50.48 for travelling expenses, and \$15.23 for petty items, a total of \$233.71. Reimbursement for these items is in addition to his charge for services.

Now, therefore, in the circumstances above set forth, and considering the character and extent and value of the services rendered, and in view of the considerations stated in the general Administrative and Jurisdictional Decision of September 28, 1928, and after careful examination and full consideration of the information furnished in this proceeding by the attorney and by the records of this Commission pertinent to the questions involved, and after due

The American Commissioner decides and fixes as the reasonable deliberation thereon,

fee to be paid by the claimant, the Equitable Trust Company of New York, as Successor Trustee in Bankruptcy of Knauth, Nachod & Kuhne, to its attorney, George T. Hogg, in this case, the sum of Two Thousand Five Hundred and Eighty-four Dollars (\$2,584.00), in addition to the Four Hundred and Twenty Dollars (\$420.00) already paid and in addition to his disbursements amounting to \$233.71, said fee to be paid by the claimant and received by the attorney as full compensation for all services rendered in the prosecution and collection of this claim, as defined in Section 9 of the "Settlement of War Claims Act of 1928."

Done at Washington, D. C., this 27th day of August, 1929.

CHANDLER P. ANDERSON,

American Commissioner,

Mixed Claims Commission,

United States and Germany.

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UNIVERSITY OF FLORIDA



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